

VIA ECF FILING ON FEBRUARY 22, 2023

Hon. Katherine Polk Failla
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007

MEMO ENDORSED

Re: Jose Rodrigues v. Stephen Matrone and Special Citizens Futures Unlimited, 22-CV-8904-KPF (S.D.N.Y)

Dear Judge Failla,

We write to the Court on behalf of Defendants in the above referenced matter, Special Citizens Futures Unlimited or “SCFU” (a non-for-profit serving the severely autistic adult communities in the Bronx and Westchester – see [Special Citizens Futures Unlimited](#)), Stephen Matrone, SCFU’s Director of Human Resources. We submit this letter motion seeking a stay all proceedings in this action pending resolution of *pro-se* Plaintiff Jose Rodriguez’s pending discrimination complaint that is before the New York State Division of Human Rights styled Rodriquez v. SFFU, NYS Div. of Human Rights Case No. 10221637 (the “DHR Action”). We respectfully submit the Court should issue a stay in these proceedings for the following reasons:

First, not unlike other non-for-profits emerging from the pandemic era, SCFU is a resource strapped organization and expending resources to defend itself against Mr. Rodriguez’s claims of discrimination is an added strain the organization can ill afford. Mr. Rodriguez previously brought an EEOC claim which the EEOC declined to pursue further after SCFU provided a detailed response demonstrating that the claims of discrimination were not meritorious. Then, in November of 2022, he filed the DHR Action and SCFU is currently in the process of having to prepare and file a response to that complaint. Plaintiff’s allegations in the DHR Action are the same as those he made with the EEOC and also makes in this lawsuit – that SCFU unlawfully discriminated against him under Title VII of the 1964 Civil rights Act based on his age and national origin. He should be required to exhaust his administrative proceedings before being allowed to strain the limited resources of this Court, as well as that of SCFU.

Second, the equities justify issuance of a stay of these proceedings pending resolution of the DHR Action. Although we understand the factual merits are not for consideration at this stage of proceedings, we do point out that SCFU is an incredibly diverse organization. Over 90 percent of its staff identify as minorities. More than 10% are over the age of 60. The allegations that SCFU discriminated on the basis of Mr. Rodriguez’s age and national origin are demonstrably untrue. He was employed in early 2022 in a part-time residential staff housing support position – a position he knew in advance required him to provide proof of Covid-19 vaccination as per SCFU’s documented policy in place to protect the well-being of its staff and the autistic residential population. Mr. Rodriguez was terminated after refusing to comply with this policy. We



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understand adjudication of the facts is not appropriate at the outset, but we state what the merits will show only to add justification to our request for a stay until the DHR Action is resolved to lessen the burden on SCFU.¹

Accordingly, on behalf of SCFU and Mr. Matrone, we would respectfully ask the Court to stay any further proceedings in this action pending completion of the administrative DHR Action.

Respectfully submitted,

John Murphy, Esq.

¹ Although we note they are not directly relevant to his claims against SCFU, we note the Mr. Rodriguez has previously filed at least two other lawsuits against former employers in this Court with the same discrimination claims as asserted in this case - *Rodriguez v. Abbot House et al*, 7:18-cv-00640-KMK (SDNY 2018)) and *Rodriguez v. Batista, et al*, 1:19-cv-09206-GHW (SDNY 2019)). We respectfully submit he is a serial filer of claims that add burden to this Court's already overloaded docket and given the pending DHR Action, we believe this latest lawsuit against SCFU should be stayed.

The Court is in receipt of Defendants' above letter motion requesting that the Court stay this case pending the resolution of Plaintiff's administrative proceeding with the NYSDHR.

Plaintiff is directed to file a response to the above letter by **March 17, 2023**. Because Plaintiff is proceeding *pro se*, he may mail any response to this District's Pro Se Intake Unit. Defendants' deadlines to respond to the Complaint are stayed pending this Court's resolution of Defendants' letter motion.

The Clerk of Court is directed to terminate the pending motion at docket entry 14, and to mail a copy of this endorsement to Plaintiff's address of record.

Dated: February 23, 2023
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE